

II. THE COMMENTS DEMONSTRATE THAT THE COSTS OF APPLYING BPP AT INMATE FACILITIES WOULD BE SUBSTANTIAL AND LIKELY TO EXCEED ANY POTENTIAL BENEFIT OF RATE REDUCTIONS

The FNPRM did not provide a estimate of either the costs or benefits of applying BPP to inmate facilities. Several parties have now submitted data on the unique costs of extending BPP to inmate facilities; no party has submitted data on its potential benefit. Nevertheless, as explained below, it now seems clear that in light of the cost data on the record, those costs are likely to exceed whatever rate reduction benefits could possibly be quantified.

A. Costs

Several parties submitted data on BPP's costs. Gateway Technologies, Inc. ("Gateway"), for example, estimates that "the costs of BPP in equipment charges for prisons alone would amount to approximately \$317 -- and about \$127 million merely to replace the installed base of correctional institution CPE -- excluding installation and maintenance expenses." Gateway Comments at 14. Thus, Gateway concludes that "even compared to the \$280 million in potential rate savings estimated for the OSP market (which are not directly germane to inmate collect calling rates), these costs clearly dwarf any potential benefits realized from extending BPP to prisons." Id.

The California DepartmentHP LASERJET 4siHPLAS4.PRSh more than \$7,000,000 in annual recurring costs for "maintenance of equipment and software, line costs, 'LIDB lookups,' and technical assistance." Comments of the California Department of Corrections

at 9-10. Thus, using Gateway's figure of 1.35 inmates nationwide, and assuming there would be comparable deployment of equipment in other locations, the California data shows that the costs of BPP in terms of equipment charges for inmate facilities would be approximately \$174.2 million (i.e. \$129 per inmate x 1.35 million inmates nationwide), with an annual recurring cost of approximately \$75.6 million (\$55 per inmate x 1.35 million).^{5/}

Thus, the evidence in the record shows that the costs of deploying equipment at all prisons to perform the functions performed by inmate calling systems range from a low of 174.2 million to a high of \$317 million, or an annual charge of \$52 million to \$94 million when the FNPRM's amortization factor of .3 is applied. If the lower California maintenance, etc. cost of \$75.6 million per year is added, a conservative annual cost to deploy the CPE that inmate calling system providers would be motivated to deploy in BPP's absence is \$127 million to \$169 million.^{6/}

Moreover, there are other costs of BPP at inmate facilities for which data was not submitted, but which nevertheless must also be taken into account. For example, although the carriers have

^{5/}The lower figure for the California DOC can likely be explained by the fact that the California penal system may be able to realize economies of scale in its purchasing and installation of inmate calling equipment.

^{6/}The Florida Department of Corrections estimated that its equipment-related costs would be approximately \$10 million, but provided no additional data on its inmate population from which a broader figure could be derived. See Comments at the Florida Department of Corrections at 2.

been silent on the data, the costs of requiring every LEC throughout the nation to upgrade their networks to provide "flex ANI" service and/or other fraud-related services within LIDB must also be considered.^{7/}

B. Benefits.

No party has provided any quantifiable data on the purported rate reduction benefit of extending BPP to inmate facilities.^{8/} Of the contrary, the comments now support what ICSPTF suggested in its initial comments regarding inmate calling rates and BPP -- that inmate calling rates may actually increase if BPP applies. Indeed, as discussed above, the comments of Sprint, AT&T and Nynex all confirm that the carriers generally view inmate calls as an important cost recovery base for BPP -- costs that would be added on to every inmate call. AT&T's comments further confirm that carriers will seek additional cost recovery on inmate calls for the additional fraud prevention and security measures they will likely be required to perform in the network.

^{7/}It should be noted that all the costs discussed in the text are in addition to the costs of BPP referred to in the Jackson/Rohlf's study cited in ICSPTF's initial comments.

^{8/}The Commission has apparently assumed that such savings are included within its general estimate of \$280 million per year. The record lacks any evidence to indicate what portion of that \$280 million dollar figure is attributable to potential rate savings from inmate calls, particularly since there is no evidence to suggest that there is an industry-wide problem with unreasonable rates for inmate calls. In any event, it is highly doubtful that the portion of the rate savings postulated by the Commission that are attributable to inmate facilities would approach the costs discussed in the text.

Thus, the record lacks any quantifiable evidence of the potential for rate savings on inmate calls, but provides every indication that rate reductions may be illusory.

C. Costs v. Benefits.

There is now documented evidence on BPP's costs if it is applied to inmate facilities. There are only vague assertions regarding BPP's potential for rate reductions, and, in any event, nothing has been quantified.

The Commission cannot go forward with extending BPP to inmate facilities unless and until it considers the cost/benefit data on the record. See Motor Vehicle Manufacturers Association, Inc. v. State Farm Automobile Insurance Co., 103 S.Ct. 2856 (1983). ICSPTF and others have done what they can to document those costs. With regard to the undocumented costs of the special network upgrades that BPP at inmate facilities would require, the carriers are in the best position to supply the Commission with that data, yet they have failed to do so. See Beaumont Branch of the NAACP v. FCC, 854 F.2d 501, 507-510 (D.C. Cir. 1988) (Commission erred by failing to seek and evaluate relevant data which was in the licensee's exclusive control). Moreover, as explained above, nobody has quantified the benefits of BPP at inmate institutions. In judicial proceedings, it is well settled that the unexplained failure or refusal of a party to produce relevant evidence which would throw light on the issues authorizes an inference or presumption unfavorable to such party. Georgia Casualty Co. v. Hoage, 59 F.2d 870, 873 (D.C. Cir. 1932). The same principle should apply here.

In the absence of better information, the Commission should assume that the reason the advocates of BPP at inmate institutions have failed to produce any relevant cost/benefit data is because they know that such data will produce an unfavorable result.

III. THE COMMENTS DEMONSTRATE THAT FRAUD CANNOT BE CONTROLLED UNDER BPP AS EFFICIENTLY AND EFFECTIVELY AS THE CURRENT SYSTEM.

The FNPRM requests comment on "the effectiveness and costs of controlling fraud originating on inmate lines with and without BPP." FNPRM at 51. ICSPTF and others, such as Gateway, explained that in addition to the need to control calling fraud from inmate facilities, prison officials must control inmate calling for a variety of other security and administrative purposes, each of which provides an independent reason to exempt inmate facilities from BPP. With regard to the issue of fraud prevention in particular, the comments clearly indicate that fraud cannot be controlled under BPP as effectively or efficiently as the current system.

A. There Is No Data Or Empirical Information Supporting "Flex-ANI" Or LIDB-Based Services As Sufficient Alternatives.

The Commission asked for comment on the effectiveness of network-based solutions to the inmate calling fraud problem, particularly whether "flex-ANI" screening and/or LIDB-based velocity queries could substitute as effective alternatives to the current system. Not a single party provided data or other empirical information supporting these proposals.

In fact, the parties that originally suggested these "solutions" either directly reversed their positions or avoided commenting on the issue. For example, as explained above, Ameritech, which originally stated that "flex-ANI" is sufficient to prevent BPP from increasing the prevalence of fraud, now concedes that "the most effective way to control fraud on inmate-originated calls is with premises equipment on the prison site, coupled with the use of a single carrier " Ameritech Comments at 12. Bell Atlantic similarly states that "there are no technical advances that solve the problem that occurs when inmates have access to multiple networks and operators, and, contrary to the Commission's apparent belief, billed party preference does not increase in any way the exchange carrier's ability to prevent fraud." Bell Atlantic Comments at 17.

Meanwhile, Sprint and MCI, which provided the Commission with the proposal for a LIDB-based solution in their earlier *ex parte* presentations, failed to support that solution in their comments. Instead, Sprint merely states that "control of fraud in the present environment depends in large part on the willingness of prisons and OSPs to invest in the proper equipment or systems. On the other hand, control of fraud under BPP would require LECs to provide information to OSPs that is not always provided today." Sprint Comments at 41. MCI avoided commenting on the issue at all.

The evidence that is on the record establishes that universal deployment of "flex-ANI" and LIDB-based fraud services would be

insufficient and expensive fraud control alternatives to the current system. For example, Gateway notes that

Modifying LIDB to replace the CPE-based fraud protection currently available to prisons is likely to be time-consuming, expensive and perhaps impossible. Unlike the remotely monitored CPE used by inmate services providers, the LIDB system is cumbersome and slow; deactivation of terminated lines and calling cards can take as much as a week in LIDB, while selective blocking/unblocking of numbers at correctional institution CPE is handled by Gateway overnight.

Gateway Comments at 19.

Ameritech expands on a defect that ICSPTF raised in its initial comments regarding the reliance on ANI digit screening as a fraud control mechanism -- the fact that ANI digit screening would not provide carriers with specific billing instructions.

Ameritech explains:

Whereas LIDB . . . can detect an inordinate number of calls to a particular number, LIDB cannot itself prevent fraud. For collect calls, LIDB only verifies if the called party will accept the call; Control of such calls is done with screening on the originating line [after which] . . . the LECs and AT&T [must] do additional screening of such calls in order to determine if the calls are collect-only.

Ameritech Comments at 14. Thus, reliance on the "29" screening codes as a primary fraud control would be wholly ineffective.

B. There Is No Cost Data For The Network-Based Proposals, And Thus No Way To Establish Their Cost Effectiveness.

Not only did the general effectiveness of the network-based proposals go unsupported; no party submitted any cost data for the record concerning the network-based proposals. Thus, the well-founded belief of ICSPTF, Gateway and others that it would be enormously expensive to require universal deployment of "flex-ANI" and LIDB-based fraud services by every LEC in the nation stands unrefuted. As explained above, the Commission should draw a negative inference against the proponents of BPP at inmate facilities in light of their failure to provide data on these costs, particularly since the proponents are in the best position to supply the Commission with this data.

IV. THE COMMENTS DEMONSTRATE THAT BPP WOULD ADVERSELY IMPACT PRISON OFFICIALS' CONTROL OF INMATE CALLING, EXPOSE THE PUBLIC TO POTENTIAL CRIMINAL TELEPHONE ACTIVITY, AND ULTIMATELY REDUCE INMATE CALLING OPPORTUNITIES AND BENEFICIAL INMATE PROGRAMS.

The Commission has been besieged with comments that demonstrate how BPP would adversely impact prison officials' control of inmate calling, and thus expose the public to potential criminal telephone activity. The Arizona Department of Corrections, for example, explains how under the current single-provider system "the inmate telephone provider has been able to ensure that the IXC will cooperate and assist [the Arizona Department of Corrections] law enforcement and criminal justice duties." Arizona Department of Corrections Comments at 4. Under BPP, however, "inmates could further perpetuate crime-by-telephone

activities by arranging for multiple outside contacts each with different IXCs in order to maximize the concealment of the illegal endeavors." Id.

The California Department of Corrections states that "because the prisons would be unable to route inmate calls through a centralized data base, the Department would lose control over public safety and security issues such as who the inmate calls and the ability to brand inmate calls." California Department of Corrections Comments at 9. The Federal Bureau of Prisons concludes that the "introduction of BPP at correctional facilities will hinder and possibly eliminate many of the fraud detection and security techniques currently being used at most federal facilities." Federal Bureau of Prisons Comments at 2.

The comments further demonstrate that it is unlikely that correctional facilities will be able to independently finance the sophisticated calling equipment that inmate calling services providers currently supply at no cost to the facility. The likely result will be that inmate calling opportunities will be dramatically reduced. For example, California Department of Corrections explains that in order to continue its current system:

the State would have to purchase, maintain and administer the system with public moneys. We would have to place central processing equipment at each prison to block the calls coming from that prison. A centralized statewide system would have to be purchased to integrate information and block calls from the 28 prisons and 124,000 inmates.

California Department of Corrections Comments at 9-10. As explained above, the initial costs for such a system in California

are estimated to be \$16,000,000 with more than \$7,000,000 for "maintenance of equipment and software, line costs, LIDB "lookups," and technical assistance." Id. Thus, the California Department of Corrections, as well as virtually every other of the hundreds of prison and jail officials that filed letters or comments in this proceeding, anticipates that it may have "to reduce the number of inmate telephones drastically" if BPP applies. Id.

The comments also confirm that BPP will have a devastating effect on the funding for important inmate programs. For example, Friends Outside, an organization that provides valuable educational and human service programs for the benefit of inmates and their families, opposes BPP at inmate facilities since it would take away their primary source of revenue. They conclude that BPP's "cost to the community, through the loss of [important inmate programs,] would be devastating." Letter of Friends Outside, dated August 25, 1994.

C.U.R.E. attempts to address this unavoidable consequence of BPP by arguing that inmate phone providers will continue to provide inmate calling equipment at no cost to the facility because BPP "will not affect immediately the intraLATA and local collect calling market." C.U.R.E. Comments at 6. C.U.R.E. assumes, with no supporting data, that local and intraLATA calling is a significant percentage of the inmate calling market. C.U.R.E. Comments at 7.^{2/} Thus, C.U.R.E. surmises that inmate phone

^{2/}C.U.R.E. has incorrectly assumed that state facilities are "are likely to contain inmate who live within the LATA." C.U.R.E. (continued...)

providers will continue to conduct business as usual with the revenues they receive from local and intraLATA calling traffic, even though the revenues they currently receive from interLATA calling will vanish under BPP.

C.U.R.E.'s logic illustrates how it faces an inescapable dilemma. On one hand, C.U.R.E. is supporting BPP because it apparently believes that BPP will best serve inmate families. At the same time, C.U.R.E. has implicitly recognized that the current system is also important to its membership since it has provided increased calling opportunities and beneficial programs for inmates. Torn between these conflicting interests, C.U.R.E. is now forced to advocate a BPP system which could only be partially applied if the benefits of the current system are to survive.

However, C.U.R.E. has not proposed a viable solution to its dilemma. The inmate calling traffic figures that are in the record indicate that local and intraLATA calling from correctional facilities accounts for 37.6% of the traffic on average.^{10/} Thus, inmate calling services providers would immediately lose, on average, over 60% of their current traffic if BPP applies. Even the most efficient provider could not lose that much of its market

^{2/}(...continued)

Comments at 7. This assertion is clearly wrong. The record shows that local and intraLATA calling is more prevalent from city and county facilities, not state facilities which will typically house inmates from a variety of LATAs. See Comments of Value Added Communications ("VAC") at 4 n. 3. See note 10, infra.

^{10/}See, VAC Comments at 4. When county facilities are analyzed separately, the figure for intraLATA calling traffic appears to rise substantially, to almost 90%. Id.

share and expect to remain in business at all -- much less so without making substantial cuts in the equipment and services it provides for the facility. Thus, the concerns about the likelihood of inmate phone reduction and the elimination of beneficial inmate programs that the California Department of Corrections, groups like Friends Outside, and others have raised are verifiable and real.

Moreover, the partial BPP system that C.U.R.E. supports is wholly inconsistent with the Commission's stated goals in this proceeding. Indeed, the Commission anticipates that BPP's benefits will be augmented upon the deployment of a ubiquitous, nationwide BPP system. Thus, the Commission has "encourage[d] all states to extend [BPP's] application to all intraLATA traffic to maximize the benefits of BPP." FNPRM at ¶ 19. Even if there is validity to C.U.R.E.'s argument, therefore, it would require that the Commission preempt the states and prohibit them from adopting BPP at the LATA level in order to be effective -- something that the Commission has clearly said it will not do. If anything, to be consistent, the Commission would be more likely to preempt the states and require adoption of BPP at the LATA level.

V. TO THE EXTENT THERE IS A PROBLEM WITH THE RATES OF CERTAIN PROVIDERS, REASONABLE RATE REGULATION IS A MORE EFFECTIVE AND EFFICIENT ALTERNATIVE.

A. There Is No Record Of An Industry-Wide Problem.

Several parties have noted that there is no evidence in the record to suggest that there is an industry-wide problem with

inmate calling rates.^{11/} At best there is only cursory and anecdotal allegations about high rates, but nothing that establishes that there is an industry-wide problem.^{12/}

To the contrary, the record establishes that the rates for inmate calling rates are by and large being "capped" through the government contracting process that providers must go through in seeking facility contracts. For example, VAC supplied data showing that over the past 18 months, 86% of the Requests for Proposals ("RFPs") of various County and State facilities have required rate ceilings that were either tied to dominant carrier rates, or ultimately awarded to a provider who offered dominant carrier rates. VAC Comments at Exhibit 1.

VAC's data further shows that at the state level, the recent RFPs of at least ten (10) state Department of Corrections ("DOCs") (Colorado, Illinois, Georgia, Louisiana, Pennsylvania, Massachusetts, Mississippi, New Jersey, Oklahoma and Wisconsin) have required rate ceilings. ICSPTF has also received similar data from state DOCs and can add the following seventeen (17) states to VAC's list: Alaska, California, Connecticut, Florida, Maine, Maryland, Minnesota, New York, Nevada, Ohio, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia and Washington. Thus,

^{11/}See, e.g., Gateway Comments at 10-12; and VAC Comments at 4-5 and related attachments.

^{12/}For example, in its initial *ex parte* comments, C.U.R.E. provided examples of what it claims were unreasonable rates based on letters it had received from certain inmate families. Those allegations, however, were not reliable data, and clearly did not establish a record of industry-wide abuse.

the record shows that at least 27 state DOCs currently have rate ceilings in their contracts. Moreover, every state DOC which has issued an RFP over the last 18 months of which ICSPTF's members are aware has required rate ceilings in their contracts.

As such, ICSPTF agrees with Gateway, VAC and others that to the extent there is a problem with overcharging for inmate calls, it is isolated among a handful of providers. The majority of providers are charging rates that are reasonable and fair. There is simply no basis in fact upon which the Commission could conclude that there is an industry-wide problem with inmate calling rates.

B. Any Resolution Of Overcharging Will Require Enforcement Efforts By The Commission. BPP Would Be An Expensive And Ineffective Rate Enforcement Vehicle. The Commission Should Therefore Use Its Existing Enforcement Powers.

Certain parties have suggested that BPP would cure high rates without Commission involvement. Nothing could be further from the truth. Even after the billions of dollars are spent to implement BPP into the network, BPP would still require that every one of the hundreds of thousands of pieces of CPE throughout the nation be reprogrammed by the owners of that equipment. This will require substantial oversight by the Commission.

Indeed, as the industry atomizes, and the organized inmate calling services industry disappears after BPP, the burden of reprogramming the equipment will be left to thousands of individual jail administrators throughout the nation. These administrators have no particular nexus to the telecommunications industry, and few, if any, have regulatory counsel. Thus, it would take years

before there was a complete understanding by jail administrators of their specific obligations under BPP. Moreover, there will clearly be recalcitrants within this group who refuse to reprogram their equipment, just as there have been a few renegade payphone owners who have refused to comply with the unblocking requirements of TOCSIA. The Commission's enforcement burden is therefore likely to increase after BPP, not go away. And the Commission would be enforcing its rules against sheriffs, jail officials, state and local government officials who cannot reasonably be expected to be familiar with the telecommunications terrain.

Thus, BPP at inmate facilities would merely shift the Commission's enforcement resources from rate scrutiny to phone inspections at thousands of correctional facilities nationwide. Clearly, this type of enforcement would be very expensive and likely to solve nothing in terms of bringing lower rates.

The fact is that any system requires enforcement and policing by the Commission. Even rate ceilings in contracts between corrections officials and providers require enforcement through adherence to the procurement process and general oversight.^{13/}

^{13/}Indeed, a recent article in *The Washington Post* reports an apparent breakdown in the procurement process of an inmate calling services provider for the D.C. Jail and Lorton prison that led to what certainly appears to be overcharging. See, "District Says Bethesda Firm Violated Pay Phone Contract," *Washington Post*, September 7, 1994, Section D2, Col. 3. The Florida Public Service Commission has also cited an isolated instance of overcharging involving a Florida provider where contractual rate ceilings were required. See, Reply Comments of the Florida Public Service Commission at 3. Neither case, however, can fairly or reasonably be the basis for any generalization about other jurisdictions' failure to control rates.

ICSPTF is in full agreement with the approach suggested by Gateway in its comments with regard to those individual providers who may be overcharging -- the Commission should use its enforcement and complaint powers against those providers. The Commission should not tolerate providers who may be charging unreasonable rates. If there is evidence of a provider charging excessive rates, such as suggested by the Washington Post article referred to above, ICSPTF urges the Commission to use its existing enforcement powers to immediately halt that practice.

C. A Reasonable Rate Benchmark Will Assist The Commission With Its Enforcement Duties.

Several parties agree with ICSPTF that a Commission-mandated rate benchmark for inmate calling rates is a more sensible alternative to BPP in terms of rate enforcement. ICSPTF submits that a rate benchmark would help to lessen the Commission's enforcement burden by providing a firm standard that federal, state and local prison and jail authorities can implement into their contracts with providers.

Since filing its initial comments, ICSPTF's members have discussed the rate benchmark issue in more detail. ICSPTF is in the process of formulating specific rate benchmarks. At this stage, ICSPTF has developed a basic framework for an appropriate benchmark.

The Commission should develop a benchmark based upon an evaluation of the current marketplace conditions and prevailing

rates.^{14/} After a prevailing rate has been established, inmate system providers should be required to set rates within a reasonable rate ceiling that is fair to all providers and consumers of inmate calls. Some providers may have to be above that prevailing rate but below the rate ceiling. Providers who charge rates in excess of that ceiling should be subject to Commission investigation and enforcement actions.

A rate ceiling would have several elements. One element is a fixed operator assistance charge. This charge would include all fixed charges; it is akin to current operator assistance charges now prevalent in the public communications industry. No add-ons, premises imposed fees ("PIFs"), special fees, etc. would be permitted.

The second element would be a usage sensitive, i.e., a per minute charge that had a rate ceiling. This rate may be either "postalized" or distance sensitive, but, in any event, the rate ceiling could not be exceeded.

Finally, a second usage sensitive element, that is both "capped" and has a maximum, would be allowed. The purpose of this supplemental charge would be to reflect the particular cost and market conditions faced by individual inmate call system providers. The rate for each increment, e.g., each minute, would be subject

^{14/}Some parties have suggested establishing a rate benchmark tied to the dominant carrier's rates. ICSPTF disagrees with that position. Equating a benchmark to a particular carrier's rates would provide that carrier with an opportunity to undercut the market and drive the smaller providers out of business. This approach is also too burdensome on that particular carrier. It will lead as well to market distortions

to a ceiling and the total charge on any call for all increments would be subject to a maximum. The first increment, e.g., the first minute, could be "front-loaded" to some degree to reflect call set-up charges and "fixed costs" associated with each call, such as billing and collection, validation, etc. The rate for each additional increment would be considerably less than the rate for the initial increment, and the caller could only be charged for a limited number of increments until the maximum charge allowed were reached.^{15/}

Finally, with regard to enforcement, the Commission should send a public notice to all correctional officials and ICS providers nationwide to inform them about the benchmark. That notice should encourage those officials to follow that benchmark in their contracts with providers. ICSPTF is willing to work with the Commission in establishing such an educational campaign. On the other hand, ICSPTF does not agree with the enforcement proposal in the FNPRM that would exempt from BPP those facilities that charge rates below the predetermined benchmark. For the reasons discussed above and throughout the comments in this proceeding, BPP is a costly, inefficient proposal that will do more harm than good.

^{15/}Calls that are not of sufficient duration would not reach the maximum charge. Once longer calls reached a duration sufficient to incur the maximum charge under this element, the caller could incur no additional charges under this element. (The caller would, however, be subject to continuing usage sensitive (e.g., per minute) charges under the second element described in the text.) Because some calls will be short-duration calls, it will necessarily be the case that the average charge for this element will always be less than the maximum permitted.

The Commission should not, therefore, adopt BPP for any reason, let alone for the sole purpose of enforcing rate compliance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David B. Jeppsen", is written over a horizontal line.

Albert H. Kramer
David B. Jeppsen
KECK, MAHIN & CATE
1201 New York Avenue, N.W.
Washington, D.C. 20005-3919
(202) 789-3400

Attorneys for the Inmate Calling
Services Providers Task Force

Dated: September 14, 1994

EXHIBIT 3

Graham & James



October 24, 1995

Thomas R. Keane
NuCoM
7901 Stoneridge Drive
Suite 400
Pleasanton, CA 94588

Re: Advice Letter No. 17801

Dear Tom:

Enclosed please find a copy of Pacific Bell Advice Letter No. 17801, filed October 20, 1995, by which Pacific proposes to introduce a "redesigned" scan and reject billing edit in its access services tariff.

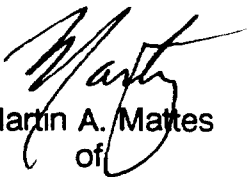
The advice letter, as filed, closely resembles the draft that we reviewed in late August, but incorporates the language we suggested in the last sentence of the new tariff provision, Section 8.2.1(B)(2)(j). This change, which includes in the tariff an appropriate rationale for changes in maximum allowable rates, is an improvement.

The other significant change is to the list of maximum allowable rates in the advice letter itself. The only change from the draft is to the maximum allowable rate for Operator Station calls, which has been raised from \$1.20 to \$2.25. I believe this change is intended to respond to concerns expressed by Richard Purkey of Sprint in his memo of September 15, although the change is different than the ones he proposed.

It is probably not necessary for CPA to respond to this advice letter if we consider this version satisfactory, as I think we should. However, it might be worthwhile for me to place a couple of calls to determine whether a CPA response in support of the advice letter would be helpful. Please let me know if I should do so.

With best regards.

Very truly yours,


Martin A. Mattes
of
GRAHAM & JAMES

MAM:jw

Enclosure

cc: Darla Jorgenson
Albert Kramer
Vicky Kiser

Our File: 16063.4

Attorneys

One Maritime Plaza
Suite 300
San Francisco, CA
94111-3492
Tel (415) 954 0200
Fax (415) 391 2493

Direct tel
(415) 954 0313

Internet
mmattes@gj.com

Graham & James

Los Angeles
Newport Beach
New York
Palo Alto
Sacramento
San Francisco
Washington, DC

Beijing
Tokyo
Düsseldorf
London
Milan

Deacons Graham & James

Bangkok
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Taipei

Brisbane
Canberra
Melbourne
Perth
Sydney

Affiliated Offices

Berlin
Brussels
Bucharest
Frankfurt
Leipzig
Munich
Prague
Mexico City
Jeddah
Kuwait
Riyadh

Al Swan
Executive Director
Regulatory

140 New Montgomery Street, Room 1822
San Francisco, California 94105
(415) 542-0373

PACIFIC BELL
A Pacific Telesis Company

October 20, 1995

U 1001 C
Advice Letter No. 17801

Public Utilities Commission of the State of California

We attach for filing the following changes in tariff sheets:

SCHEDULE CAL.P.U.C. NO. 175-T

| | |
|---------------------|-----------|
| 246th Revised Sheet | 1 |
| 28th | " " 1-G |
| 3rd | " " 477-A |
| Original | " 477-A-1 |

This filing revises Schedule Cal.P.U.C. No. 175-T Access Services, Section 8. Billing and Collection Services, to introduce a billing edit which has been redesigned to scan and reject any COPT intrastate originated non-sent paid messages which exceed the maximum allowable rate.

Pacific Bell filed Advice Letter No. 17207 dated December 29, 1994 to suspend the scanning and rejection of all COPT intrastate messages which were submitted to Pacific for billing effective February 7, 1995.

With this filing, Pacific introduces a redesigned edit based on standard call type indicators rather than specific rates or rate structures of any one specific company. Billing records will be received using the standard EMI format. In this format, each record contains fields that identify the nature of the call. These fields will be used to calculate the maximum allowable rate for each call. If Pacific receives a record charging more than the maximum allowable rate, the message will be returned to the carrier.

The maximum allowable rate is based on rate thresholds to accommodate all surcharge amounts which have been approved by this Commission at the time of this filing and remain in effect until the annual adjustment rate. February 1 of each year will be designated as the Adjustment Date. On February 1, Pacific Bell will adjust the rate levels to accommodate all surcharge amounts which have been approved by this Commission.

PACIFIC BELL

The maximum allowable rate will be computed based on the following rate thresholds:

1. Billable Time

| | |
|-------------------|--------|
| Initial minute | \$0.30 |
| Additional minute | .25 |

PLUS

2. Message Type:

| | |
|--------------|--------|
| Third number | \$1.20 |
| Calling Card | .60 |
| Collect | 1.20 |

OR

3. Rate Class

| | |
|------------------|--------|
| Person | \$4.15 |
| Operator Station | 2.25 |

OR

4. Indicator 16:

| | |
|-------------|--------|
| Inmate only | \$3.00 |
|-------------|--------|

All non-sent paid Intrastate calls originating from a COPT/Coin telephone and sent to Pacific Bell by the Carrier or their authorized Billing Agent for billing under Section 8 of Schedule Cal.P.U.C. No. 175-T will be subject to the scan and reject process. Calls originating "from" a COPT/Coin line "to" an 800# or a 500# will be exempted from the scanning process

In compliance with Section III. G. of General Order No. 96-A, we are mailing a copy of this advice letter and related tariff sheets to competing and adjacent Utilities and/or other Utilities, and interested parties, as requested. In addition, a copy will be mailed to all billing and collections customers.

This filing will not increase any rate or charge, cause the withdrawal of service, nor conflict with other schedules or rules.

Anyone may protest this advice letter to the California Public Utilities Commission. The protest must set forth the specific grounds on which it is based, including such items as financial and service impact. A protest must be made in writing and received within 20 days of the date this advice letter was filed with the Commission. The address for mailing or delivering a protest to the Commission is:

Chief, CACD Telecommunications Branch
505 Van Ness Avenue, Room 3203
San Francisco, CA 94102

PACIFIC BELL

A copy must be mailed to the undersigned utility on the same date it is mailed or delivered to the Commission.

Would like this filing to become effective December 1, 1995.

Yours truly,

PACIFIC BELL

A handwritten signature, likely of Al Swan, consisting of stylized initials and a surname.

Al Swan
Executive Director

Attachments

ACCESS SERVICE

LIST OF EFFECTIVE SHEETS

Sheets listed below are effective as of the date shown on each sheet.

| Sheet | Number of Revision | Sheet | Number of Revision | Sheet | Number of Revision | Sheet | Number of Revision |
|-------|-----------------------|-------|-----------------------|-------|-----------------------|-------|-----------------------|
| Title | 2nd | 1-C-1 | 49th ⁵ | 1-P | 1st | 2-F-1 | 2nd ⁴ |
| 1 | 198th ¹ | 1-C-1 | 50th ⁹ | 1-Q | Original | 2-G | 6th ⁴ |
| 1 | 236th ³ | 1-D | 27th | 1-R | 3rd | 2-H | 6th |
| 1 | 238th ⁴ | 1-D | 28th ³ | 1-R | 4th ⁴ | 2-I | 13th |
| 1 | 239th ⁵ | 1-D | 29th ⁴ | 1-R | 5th ⁵ | 2-J | 8th |
| 1 | 240th ⁶ | 1-D | 30th ⁶ | 1-R | 6th ⁶ | 2-K | 11th |
| 1 | 241st | 1-D | 31st ⁹ | 1-R | 7th ⁹ | 2-K-1 | 5th |
| 1 | 242nd ⁷ | 1-E | 43rd | 1-S | 1st | 2-K-2 | 2nd |
| 1 | 243rd ⁸ | 1-E | 44th ³ | 1-S | 2nd ⁴ | 2-L | 5th |
| 1 | 244th ⁹ | 1-F | 9th | 1-S | 3rd ⁵ | 2-L-1 | Original |
| 1 | 245th ¹⁰ | 1-G | 27th | 1-S | 4th ⁶ | 2-M | 8th |
| 1 | 246th* | 1-G | 28th* | 1-S | 5th ⁸ | 2-M-1 | 2nd |
| 1-A | 42nd | 1-H | 23rd ¹ | 1-S | 6th ⁹ | 2-N | 1st |
| 1-A | 43rd ³ | 1-H | 30th | 2 | 7th ¹⁰ | 2-O | 7th |
| 1-A | 44th ⁴ | 1-I | 48th | 2 | 12th ⁴ | 2-P | 8th |
| 1-A | 45th ⁵ | 1-I | 49th ⁷ | 2-A | 18th ⁴ | 2-P-1 | Original ² |
| 1-B | 62nd ³ | 1-I-1 | 2nd | 2-A-1 | 7th ² | 2-Q | 3rd ⁴ |
| 1-B | 63rd ⁴ | 1-J | 25th | 2-B | 2nd ⁴ | 2-R | Original ⁴ |
| 1-B | 64th ⁵ | 1-K | 16th | 2-C | 5th | 2-S | Original ⁴ |
| 1-B | 65th | 1-L | 3rd | 2-D | 7th ⁴ | 2-S | 1st ⁵ |
| 1-C | 44th | 1-M | 3rd | 2-E | 9th ⁴ | 2-T | Original ⁴ |
| 1-C | 45th ⁵ | 1-N | 1st | 2-E-1 | 8th ⁴ | | |
| 1-C-1 | 47th | 1-O | 1st | 2-F | 11th ⁴ | | |
| 1-C-1 | 48th ⁴ | | | | | | |

* Sheets issued

NOTE 1: Pending CPUC Approval of Advice Letter No. 16508.

NOTE 2: Advice Letter No. 17074 withdrawn September 2, 1994.

NOTE 3: Pending CPUC Approval of Advice Letter No. 17296.

NOTE 4: Pending CPUC Approval of Advice Letter No. 17501.

NOTE 5: Pending CPUC Approval of Advice Letter No. 17502.

NOTE 6: Pending CPUC Approval of Advice Letter No. 17588.

NOTE 7: Pending CPUC Approval of Advice Letter No. 17715.

NOTE 8: Pending CPUC Approval of Advice Letter No. 17782.

NOTE 9: Pending CPUC Approval of Advice Letter No. 17783.

NOTE 10: Pending CPUC Approval of Advice Letter No. 17800.

(N)

CC: 5170

Advice Letter No. 17801

Decision No.

Issued by

A. E. Swan

Executive Director

Date Filed: Oct. 20, 1995

Effective:

Resolution No.